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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,064

09/23/2003

Michael L. Case

42P17673

5098

8791

7590

09/01/2009

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EXAMINER

LUONG, ALAN H

ART UNIT

PAPER NUMBER

2427

MAIL DATE

DELIVERY MODE

09/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/670,064	Applicant(s) CASE, MICHAEL L.	
	Examiner ALAN LUONG	Art Unit 2427	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-23.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet Note 11.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/ALAN LUONG/
Examiner, Art Unit 2427

Continuation sheet:

Note 11: Applicant argues that there is nothing in the cited section of Fukuda to suggest that commands are received at this 1394 interface in the AV/C protocol. In addition, it does not appear that the AV/C protocol is specific to the tuner. (Remark page 3). Examiner respectfully disagrees:

Fukuda discloses the control device display the remote control panel (or GUI) of each device; receives command from user from remote control unit and is processed through graphic controller of digital receiver and sent to the CPU of Tuner where controls 1394 interface to convert the arbitrary content is transmitted from The Tuner unit that commands are received at this 1394 interface in the AV/C protocol (Fukuda; pp0054, 0056)

Applicant also argues that there is no explicit teaching of any such conversion in Fukuda as recited "a microcontroller.. ° to convert the commands from the second protocol to the first protocol." in claim ; an operation input in the second protocol is sent and then the isochronous connection is set. It would seem that the tuner executes the second protocol operation, rather than converting it to something else (Remark page 4). Examiner respectfully disagrees:

Examiner suggests Applicant thinks broader: the control unit is CPU which controls overall the components of the Tuner [102] includes 1394 interface. Fukuda teaches the 1394 interface to convert the arbitrary content is transmitted from The Tuner unit that commands are received at this 1394 interface in the AV/C protocol (Fukuda; pp0054, 0056 and 0059) under controlling by CPU [204]. Tuner unit can not operate without command from CPU [204]. In Fukuda, CPU receives the command from graphic controller [230] from GUI in second protocol, it well known in the art to understand CPU must translate this command into another protocol to command the tuner unit as the first protocol.(Fukuda; pp0109, 0110 and 0112)

Applicant also argues that The Examiner has been an approach requires two different inconsistent interpretations of the claim as to whether the tuner is Tuner 102 which includes Control Unit 204, or Tuner Unit 201 inside Tuner 102. This matters because the Control Unit 204 will not send commands to the Tuner 102 but only to the Tuner Unit 201. Claim 1 states first that "the microcontroller is coupled to the graphics controller and to the tuner." This tuner can only be the Tuner 102, because otherwise the microcontroller is a part of the thing to which it is coupled.. However, Claim 1 also states that the microcontroller is to "transmit the converted commands to the tuner through the external control interface of the tuner." This must be the Tuner Unit 201,(Remark page). Examiner respectfully disagrees:

The tuner in claim as tuner unit which is coupled to the control unit and graphic controller as are illustrated in Fig. 1 of Fukuda; control unit controls overall the components of tuner device including the Tuner unit. In order to understand Fukuda reference, Examiner suggests the Applicant thinks broader and considering the Tuner as Receiver includes the Tuner unit, control unit (CPU) and device interface 1394

However, Applicant argues that the most significant shortcomings in the Examiner's case for anticipation is that it relies on teachings which are not in the reference. Fukuda never states that operation inputs from the remote control are transferred to the Control Unit of the Tuner, as compared to another part of the Tuner.

Fukuda never states that the operation inputs in the second protocol are converted into operation inputs of the first protocol as compared to being acted on directly.

Finally, Fukuda never states that commands are sent from the Tuner Control Unit to the Tuner or the Tuner Unit through the 1394 Interface of the Tuner. This is highly unlikely since the two components appear to be directly connected.(Remark page 5). Examiner respectfully disagrees:

With respect to Fukuda never states that operation inputs from the remote control are transferred to the Control Unit of the Tuner, as compared to another part of the Tuner. Fukuda explicitly teaches the graphic controller issues a user-action command of user operation from user's remote control [104] to receiver device (DVR or Tuner); Interface of receiver receives the user -action command and send it to the CPU where executes control corresponding to such User-Action command.(Fukuda; pp0104- 0106 and 0116)

With respect to Fukuda never states that the operation inputs in the second protocol are converted into operation inputs of the first protocol as compared to being acted on directly. As above discussion; Fukuda explicitly teaches the operation inputs in the second protocol (i.e. asynchronous protocol) are converted into operation inputs of the first protocol (i.e. as compared to being acted on directly (Fukuda; pp0111- 0112)

Finally, with respect to Fukuda never states that commands are sent from the Tuner Control Unit to the Tuner or the Tuner Unit through the 1394 Interface of the Tuner. This is highly unlikely since the two components appear to be directly connected. As above discussion Fukuda explicitly states that commands are sent from the Tuner Control Unit to the Tuner or the Tuner Unit through the 1394 Interface of the Tuner (Fukuda; pp0054, 0056 and 0059)

Examiner respectfully recognizes Applicant position, with above disagreements, Examiner confidently maintains that a prima facie case of anticipation has been made against Claim 1 using Fukuda.

A.L.
08/31/2009